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Counsel for Defendant Trans Union LLC

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARIA DIAZ and OMAR DIAZ,
Plaintiff,

v.

R.C. WILEY HOME FURNISHINGS,
Corporation, RICHLAND HOLDINGS,
INC., a Corporation dba ACCTCORP;
EQUIFAX INC, a Corporation, and
TRANS UNION, LLC; a Corporation, and
EXPERIAN INFORMATION SOLUTION,
INC., a Corporation,
Defendants.

Case No. _____

DEFENDANT TRANS UNION LLC'S
NOTICE OF REMOVAL

Trans Union LLC ("Trans Union"), files this Notice of Removal pursuant to 28 U.S.C. § 1446(a) and in support thereof would respectfully show the Court as follows:

A. INTRODUCTION

1. On or about November 2, 2011, Plaintiffs Maria Diaz and Omar Diaz ("Plaintiffs") filed Plaintiffs' Complaint ("Complaint") in the District Court for Clark County,

1 Nevada, under Case No. A-11-651038-C ("State Court Action") alleging that Defendants
2 R.C. Wiley Home Furnishings, Richland Holdings, Inc. dba Acctcorp; Equifax Inc, and
3 Trans Union, LLC; a Corporation violated the Fair Credit Reporting Act, 15 U.S.C. §
4 1681 *et seq.* On November 16, 2011, Plaintiffs filed an Amended Complaint to include
5 Experian Information Solutions Inc. as a Defendant.

6
7 2. The time period for filing a responsive pleading in the State Court Action
8 has not expired as of the filing of this Notice of Removal. No orders have been entered
9 in the State Court Action as of the filing of this Notice of Removal. The Defendants
10 were served with Plaintiffs' Complaint on the following dates: Trans Union was served
11 on November 8, 2011; R.C. Wiley Home Furnishings was served on November 3, 2011;
12 Richland Holdings, Inc. dba Acctcorp was served on November 3, 2011; and Equifax Inc
13 was served on November 8, 2011. The Amended Complaint was filed on November 16,
14 2011 and served upon the Defendants on November 17, 2011. This Notice of Removal
15 is being filed within the thirty (30) day time period required by 28 U.S.C. §1446(b).
16

17 **B. GROUNDS FOR REMOVAL**

18 The present suit is an action over which this Court has original jurisdiction
19 pursuant to 28 U.S.C. § 1331 and may be removed to this Court by Defendant pursuant
20 to the provisions of 28 U.S.C. § 1441(b), as it is a civil action founded on a claim or right
21 arising under the laws of the United States. Removal is proper because Plaintiff's
22 claims present a federal question. 28 U.S.C. §§ 1331, 1441(b). In his Petition, Plaintiff
23 seeks damages for Defendants' alleged violations of the Federal Fair Credit Reporting
24 Act, 15 U.S.C. § 1681 *et seq.* Moreover, any future claims based on state law may be
25 adjudicated by this Court pursuant to 28 U.S.C. § 1367.
26

27 ///

1 **C. COMPLIANCE WITH PROCEDURAL REQUIREMENTS**

2 3. Pursuant to 28 U.S.C. § 1441(a), venue of the removal action is proper in
3 this Court because it is in the district and division embracing the place where the state
4 court action is pending.

5 4. In accordance with 28 U.S.C. § 1446(a), all executed process, pleadings
6 asserting causes of action, and orders served upon the Defendant Trans Union in the
7 State Court Action are attached hereto as Exhibit "A".

8 5. Pursuant to 28 U.S.C. § 1446(b), this Notice is being filed with this Court
9 within thirty (30) days after the first Defendant received a copy of Plaintiffs' pleading
10 setting forth the claims for relief upon which Plaintiff's action is based.

11 6. Promptly after the filing of this Notice of Removal, Trans Union shall give
12 written notice of the removal to the Plaintiffs and will file a copy of this Notice of
13 Removal with the Clerk of the District Court for Clark County, Nevada, as required by 28
14 U.S.C. § 1446(d).

15 7. Trial has not commenced in the Court of Common Pleas for the District
16 Court for Clark County, Nevada, under Case No. A-11-651038-C.

17 8. All Defendants, who have been served upon the date of filing of this Notice
18 of Removal and remain parties to this litigation, consent to the removal of this case.
19 Consents in the Removal from R.C. Wiley Home Furnishings, Richland Holdings, Inc.
20 dba Acctcorp; Equifax Inc. are attached hereto as Exhibit "B". By filing this Notice of
21 Removal, Trans Union consents to the removal of this case.
22
23
24

25 ///

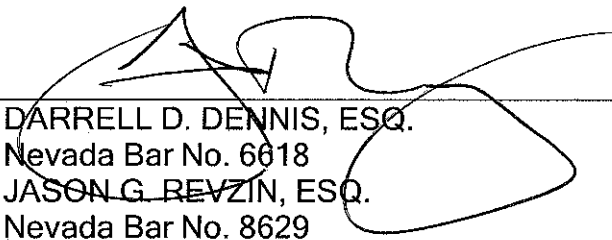
26 ///

27 ///

1 WHEREFORE, PREMISES CONSIDERED, Trans Union LLC, hereby gives
2 notice that this action is removed to this the United States District Court for the District of
3 Nevada, Las Vegas Division, and requests that it receive such other and further relief to
4 which it may show itself justly entitled at law or in equity.

5 DATED this 22nd day of November, 2011.

6 LEWIS BRISBOIS BISGAARD & SMITH LLP

7
8 
9 DARRELL D. DENNIS, ESQ.

10 Nevada Bar No. 6618

11 JASON G. REVZIN, ESQ.

12 Nevada Bar No. 8629

13 6385 S. Rainbow Boulevard, Suite 600

14 Las Vegas, NV 89118

15 Telephone: (702) 893-3383

16 Fax: (702) 893-3789

17 E-Mail: dennis@lbbslaw.com

18 E-Mail: revzin@lbbslaw.com

19 *Counsel for Defendant Trans Union LLC*
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

This is to certify that on the 22ND of November, 2011, I filed DEFENDANT TRANS UNION LLC'S NOTICE OF REMOVAL with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following counsel, and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

Roberta Ohlinger-Johnson, Esq.
HARRIS, YUG & OHLINGER
1489 W. Warm Springs Road, Suite #110
Henderson, NV 89014
Telephone: (702) 966.8270
Fax: (866) 592.8826
Counsel for Plaintiffs



An Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP

EXHIBIT "A"

SUMM

HARRIS, YUG & OHLINGER

ELLIOTT D. YUG, ESQ.

Nevada Bar #5172

ROBERTA OHLINGER-JOHNSON, ESQ.

Nevada Bar #10946

1489 W. Warm Springs Road, Ste #110

Henderson, NV 89014

702.966.8270 Telephone

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efile@HYandOAttorneys.com

Attorneys for Plaintiff

MARIA DIAZ and OMAR DIAZ,

Plaintiff(s)

vs.

R.C. WILLEY HOME FURNISHINGS, a

Corporation, RICHLAND HOLDINGS, Inc., a

Corporation dba ACCTCORP; EQUIFAX INC,

a Corporation, and TRANS UNION LLC, a

Corporation

Defendant(s)

CASE NO.: A 11-651038-C

DEPT. NO.: XXVII

☒ EXEMPT ☐ NOT EXEMPT FROM

ADR pursuant to NAR 3A - Requests

Equitable Relief

SUMMONS - CIVIL

AS TO TRANS UNION LLC

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
WITHOUT YOUR BEING HEARD ULESS YOU RESPOND WITHIN 20 DAYS. READ
THE INFORMATION BELOW.**

TO THE DEFENDANTS(S): A civil Complaint has been filed by the Plaintiff(s) against you
for the relief set forth in the Complaint.

- 1 1. If you intend to defend this lawsuit, within 20 days after this Summons is served on
2 you, exclusive of the day of service, you must do the following:
 - 3 a. File with the Clerk of this Court, whose address is shown below, a formal
4 written response to the Complaint in accordance with the rules of the Court,
5 with the appropriate filing fee.
 - 6 b. Serve a copy of your response upon the attorney whose name and address is
7 shown below.
- 8 2. Unless you respond, your default will be entered upon application of the Plaintiff(s)
9 and failure to so respond will result in a judgment of default against you for the relief
10 demanded in the Complaint, which could result in the taking of money or property or
11 other relief requested in the Complaint.
- 12 3. If you intend to seek the advice of an attorney in this matter, you should do so
13 promptly so that your response may be filed on time.
- 14 4. The State of Nevada, its political subdivisions, agencies, officers, employees, board
15 members, commission members and legislators each have 45 days after service of this
16 Summons within which to file an Answer or other responsive pleading to the
17 Complaint.

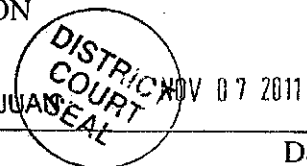
18 Submitted by:

19
20 ISIRI
21 HARRIS, YUG & OHLINGER
22 ROBERTA OHLINGER-
23 JOHNSON, ESQ.
24 Nevada Bar #10946
ELLIOTT D. YUG, ESQ.
Nevada Bar #5172

STEVEN D. GRIERSON
CLERK OF COURT

By: JOSEFINA SAN JUAN
Deputy Clerk

Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155



Date

AFFIDAVIT OF SERVICE

STATE OF _____)

COUNTY OF _____)

ss: _____)

_____, being duly sworn, says: That at all times herein affiant was and is over 18 years of age, not a party to nor interested in the proceeding in which this affidavit is made. That affiant received _____ copy(ies) of the Summons and Complaint, _____ on the _____ day of _____, 2011 and served the same on the _____ day of _____, 2011 by:

(Affiant must complete the appropriate paragraph)

1. Delivering and leaving a copy with the Defendant _____ at (state address) _____.
2. Serving the Defendant _____ by personally delivering and leaving a copy with _____, a person of suitable age and discretion residing at the Defendant's usual place of abode located at (state address) _____.

[Use paragraph 3 for service upon agent, completing (a) or (b)]

3. Serving the Defendant _____ by personally delivering and leaving a copy at (state address) _____.

1 a. With _____ as _____, an agent lawfully
2 designated by statute to accept service of process;

3 b. With _____, pursuant to NRS 14.020 as a person of suitable
4 age and discretion at the above address, which address is the address of the
5 resident agent as shown on the current certificate of designation filed with the
6 Secretary of State.
7

8 4. Personally depositing a copy in a mail box of the United States Post Office, enclosed in a
9 sealed envelope, postage prepaid (Check appropriate method):

- 10 ☐ Ordinary mail
11 ☐ Certified mail, return receipt requested
12 ☐ Registered mail, return receipt requested
13

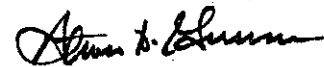
14 Addressed to the Defendant _____ at Defendant's last known address
15 which is (state address) _____
16

17 I declare under penalty of perjury under the law of the State of Nevada that the foregoing
18 is true and correct.
19

20 EXECUTED this ____ day of _____, 2011.
21

22
23 _____
24 Signature of person making service
25
26
27
28

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CLERK OF THE COURT

1 **COMP**
2 **HARRIS, YUG & OHLINGER**
3 **ROBERTA OHLINGER-JOHNSON, ESQ.**
4 Nevada Bar #10946
5 1489 W. Warm Springs Road, Ste #110
6 Henderson, NV 89014
7 702.966.8270 Telephone
8 866.592.8806 Facsimile
9 efile@HYandOAttorneys.com
10 Attorneys for Plaintiff(s)

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 MARIA DIAZ and OMAR DIAZ,
11 Plaintiff(s)

12 vs.

13 R.C. WILLEY HOME FURNISHINGS, a
14 Corporation, RICHLAND HOLDINGS, Inc., a
15 Corporation dba ACCTCORP; EQUIFAX INC,
16 a Corporation, and TRANS UNION LLC, a
17 Corporation

18 Defendant(s)

A- 11- 651038- C

CASE NO.:

XXVI I

DEPT. NO.:

☒ EXEMPT ☐ NOT EXEMPT FROM

ADR pursuant to NAR 3A - Requests

Equitable Relief

20 **COMPLAINT**

21
22 COMES NOW, Plaintiff(s), through their attorneys of record, Roberta Ohlinger and Elliott Yug
23 of HARRIS YUG AND OHLINGER, and complain and allege as follows:

24
25 **STATEMENT OF THE PARTIES**

- 26 1. Plaintiffs MARIA DIAZ, formerly MARIA PLOTKIN, and OMAR DIAZ are consumers
27 within the meaning of the Fair Credit Reporting Act, henceforth FCRA, 15 USC § 1681a.
28

- 1 2. Defendant R.C. WILLEY HOME FURNISHINGS, hereinafter RC WILLEY, is a retailer
2 of furniture, who provides consumer credit for purchase of their products, and is a
3 *furnisher of information* to consumer reporting agencies pursuant to the FCRA.
- 4 3. Defendant RICHLAND HOLDINGS, INC. dba Acctcorp of Southern Nevada,
5 hereinafter RICHLAND, is a collections agency and a *furnisher of information* to
6 consumer reporting agencies within the ambit of the FCRA.
- 7 4. Defendants EQUIFAX, INC, hereinafter EQUIFAX, and TRANS UNION LLC,
8 hereinafter TRANSUNION, are agencies which compile information on credit worthiness
9 and provides *consumer reports* as defined in the FCRA, 15 USC § 1681a.

10
11
12 JURISDICTION

- 13 5. Plaintiff(s) repeat and reallege all allegations above.
- 14 6. Plaintiffs at all times were and are residents of the County of Clark, State of Nevada.
- 15 7. Defendant R.C. WILLEY HOME FURNISHINGS is a foreign corporation which does
16 business in Clark County, Nevada, and this Court has jurisdiction.
- 17 8. The underlying contracts with R.C. WILLEY were entered into in the County of Clark,
18 State of Nevada, and this court has jurisdiction.
- 19 9. Upon information and belief, Defendant RICHLAND HOLDINGS, INC. is a corporation
20 doing business as Acctcorp of Southern Nevada in the County of Clark, State of Nevada,
21 and this court has jurisdiction.
- 22 10. Defendant EQUIFAX is a Corporation doing business in Nevada via the internet, and this
23 court has jurisdiction.
- 24 11. Defendant TRANS UNION, LLC is a foreign Corporation doing business in Nevada via
25 the internet, and this court has jurisdiction.
- 26 12. The acts and omissions complained of herein were committed in the County of Clark,
27 State of Nevada, and this court has jurisdiction.
- 28

FIRST CLAIM FOR RELIEF

(Violation of the Fair Credit Reporting Act, 15 USC §1681 *et. seq.*)

13. Plaintiff(s) repeat and reallege all allegations above.

14. In February 2005, Lonny Plotkin and MARIA DIAZ, then MARIA PLOTKIN, hereinafter MARIA, applied for consumer credit with R.C. WILLEY. They were approved for a joint, revolving credit account with the numbers 2117992200.

15. In 2006, MARIA and Lonny divorced. Pursuant to the decree Mr. Plotkin was to assume responsibility for the R.C. WILLEY obligation, which he did. The joint account was closed, and transferred to a new account which was supposed to be Mr. Plotkin's sole account.

16. Upon information and belief, the Account was transferred to a new account, which should have been Mr. Plotkin's separate account, but was at least negligently designated a joint account.

17. Upon information and belief, Mr. Plotkin began to have delinquencies sometime in 2007.

18. This negative tradeline was reported by RC WILLEY and RICHLAND, as their agent, to TRANS UNION, EQUIFAX, and Experian in 2008 as a collections history against MARIA.

19. On or about August 2009, MARIA became aware of the negative report because of an adverse action on a home loan. MARIA contacted ACCTCORP, and requested a correction. At that time, MARIA had excellent credit except for this single tradeline.

20. On or about August 2010, MARIA became aware of the continuing negative tradeline because of an adverse action on an auto loan.

1 21. In August 2010, MARIA again disputed this information with RICHLAND HOLDINGS
2 dba ACCTCORP, who indicated the report was in error and agreed to delete the tradeline
3 on her social security number.

4 22. At that time, MARIA sent dispute letters to all three national credit reporting agencies,
5 Defendants TRANSUNION, EQUIFAX, and Experian. She included the correspondence
6 from ACCTCORP indicating the report was in error, and TRANSUNION replied that the
7 *dispute had been investigated and found to be invalid.*

8 23. In April of 2011, MARIA disputed this tradeline directly with RC WILLEY, who agreed
9 to delete the tradeline on her social security number.
10

11 24. As of the date of drafting, OCTOBER 24, 2011, the negative tradeline continues to
12 appear on her credit reports with both TRANSUNION and EQUIFAX.
13

14 25. MARIA and OMAR DIAZ have been damaged in adverse actions by lenders for this
15 negative collections history, causing the Plaintiff's to suffer an increased interest rate in
16 their automobile and home loans, including a denial of credit for which they otherwise
17 qualified, and now MARIA and OMAR DIAZ are threatened with the loss of federal
18 employment as a direct result of the continued mis-reporting.
19

20 26. That the Defendants have collectively failed to maintain reasonable procedures for the
21 investigation of credit disputes; that the Defendants have failed to investigate a dispute;
22 and that the Defendants have collectively failed to delete an erroneous tradeline.
23

24 27. That each and every one of these Defendants have acted if not intentionally, then at least
25 with reckless disregard for the rights of the individual and their duties pursuant to statute,
26 thereby justifying punitive damages sufficient to deter like conduct.
27

28 ///

SECOND CLAIM FOR RELIEF

(Negligent Undertaking)

28. Plaintiff(s) repeat and reallege all allegations above.

29. Each and every one of the Defendants owes a duty to the Defendant that if they are going to report consumer credit information, they must provide accurate information.

30. Each and everyone of these Defendants has breached that duty, and callously injured and endangered the economic and employment welfare of the Plaintiffs in the midst of the highest unemployment and general economic downturn in the modern century.

31. Each and everyone of these Defendants has acted with callous disregard for the rights of Plaintiffs and their duties pursuant to statute, so as to justify an award of punitive damages sufficient to deter like conduct.

THIRD CLAIM FOR RELIEF AS TO RICHLAND HOLDINGS & ACCTCORP

(Violation of 15 USC § 1692 *et seq.*, Fair Debt Collections Practices Act)

32. Plaintiff(s) repeat and reallege all allegations above.

33. That RICHLAND and ACCTCORP are debt collectors subject to the Fair Debt Collections Practices Act, 15 USC 1692 *et. seq.*, henceforth FDCPA.

34. That these Defendants have engaged in multiple violations of the FDCPA, in failing to report that a debt is disputed and misrepresenting the legal characterization of the debt.

35. That these errors have been persistent and ongoing.

WHEREFORE Plaintiffs pray for Judgment as follows:

1. Temporary and permanent injunction against the Defendants from continued reporting of the tradeline against Ms. Diaz;

2. Damages in excess of \$10,000 in an amount to be proven at trial;
3. Statutory damages;
4. Punitive damages pursuant to statute;
5. A reasonable attorney fees and costs of suit;
6. And other such relief as the Court should find just and proper in the circumstances.

Respectfully submitted this 24th day of October, 2011.

By: /s/ R. Ohlinger
HARRIS, YUG & OHLINGER
ROBERTA OHLINGER-JOHNSON
Nevada Bar #10946
Attorneys for Plaintiff(s)

CIVIL COVER SHEET

Clark— County, Nevada

Case No. _____

(Assigned by Clerk's Office)

A- 11- 651038- C

XXVII

I. Party InformationPlaintiff(s) (name/address/phone): MARIA DIAZ and OMAR DIAZ

Attorney (name/address/phone):

HARRIS, YUG & OHLINGER — (702) 966-82701489 W. Warm Springs Road, Suite #110Henderson, NV 89014

Defendant(s) (name/address/phone):

R.C. Willey Home Furnishings; 20 North Stephanie Street,
Henderson, NV 89119;Richland Holdings, Inc. dba ACCTCORP; 8985 South Eastern,
Suite #160, Las Vegas, NV 89123EQUIFAX INC.; 2215-B Renaissance Drive, Las Vegas, NV
89119Trans Union LLC; 2215-B Renaissance Drive, Las Vegas, NV
89119

Attorney (name/address/phone):

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)☐ **Arbitration Requested****Civil Cases**

Real Property	Torts	
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Negligence <input type="checkbox"/> Negligence – Auto <input type="checkbox"/> Negligence – Medical/Dental <input type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence – Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input checked="" type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input checked="" type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
Estimated Estate Value: _____ <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

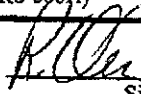
☐ NRS Chapters 78-88
☐ Commodities (NRS 90)
☐ Securities (NRS 90)

☐ Investments (NRS 104 Art. 8)
☐ Deceptive Trade Practices (NRS 598)
☐ Trademarks (NRS 600A)

☐ Enhanced Case Mgmt/Business
☐ Other Business Court Matters

11/2/2011

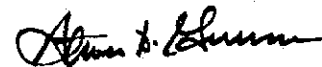
Date



Signature of initiating party or representative

See other side for family-related case filings.

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CLERK OF THE COURT

HARRIS, YUG & OHLINGER
ROBERTA OHLINGER-JOHNSON, ESQ.
Nevada Bar #10946
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Henderson, NV 89014
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efile@HYandOAttorneys.com
Attorneys for Plaintiff(s)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

MARIA DIAZ and OMAR DIAZ,
Plaintiff(s)

vs.

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Corporation

Defendant(s)

CASE NO.: A 11-651038-C

DEPT. NO.: XXVII

☒ EXEMPT ☐ NOT EXEMPT FROM

ADR pursuant to NAR 3A - Requests
Equitable Relief

NOTICE AND APPLICATION FOR
PRELIMINARY INJUNCTIVE RELIEF

NOTICE OF MOTION

YOU AND EACH OF YOU will take notice that the above named Plaintiff will bring its
Application for Preliminary Injunctive Relief on for hearing before Department XXVII of the
above-caption Court on the 16 day of Dec, 2011 at the hour of 10:00 am / pm or as soon
thereafter as Counsel may be heard.

1 APPLICATION FOR PRELIMINARY INJUNCTIVE RELIEF

2 COMES NOW, Plaintiff(s), by and through their attorneys of record, Roberta Ohlinger-Johnson
 3 of HARRIS YUG AND OHLINGER, and hereby apply to the Court for a preliminary injunction
 4 pursuant to NRS 33.010 and NRCP 65 requiring the Defendants to remove the collections
 5 tradeline for RC WILLEY Account number 2117992200 / D33944N2 within five (5) days of
 6 written notice of entry of the Order, with a waiver of the bond requirement pursuant to NRCP
 7 65(c), and sanctions per Defendant per day for noncompliance.

9 BACKGROUND

10 This case arises under the Fair Credit Reporting Act, 15 USC § 1681 *et. seq.* and the Fair
 11 Debt Collection Practices Act, 15 USC § 1692 *et. seq.* and common-law Negligent Undertaking
 12 for failure to accurately report an adverse collections account. Plaintiff MARIA DIAZ, formerly
 13 Maria Olivarez, opened an account with RC WILLEY with her ex-husband in 2005. In 2006, the
 14 parties divorced, and Mr. Plotkin transferred the joint account to a separate account pursuant to
 15 the divorce decree. He became delinquent sometime in 2007. MARIA has been fighting the
 16 named Defendants since 2009 for removal of the tradeline, which has now resulted in two
 17 adverse interest rates increases, despite her then otherwise stellar credit.

20 Both furnishers of information have agreed the reporting was inaccurate, and proof is
 21 provided along with this application for injunctive relief. Both furnishers have promised to
 22 delete the tradeline. Both Defendant credit reporters, TRANSUNION and EQUIFAX, have been
 23 notified of the dispute, and the furnishers' admission that it was incorrect. Defying all logic, the
 24 collections history are still reported against her to this day, and not even marked as disputed¹
 25 pursuant to the FCRA. The Plaintiffs, MARIA and her husband OMAR DIAZ, now request
 26
 27

28 ¹ Under industry practice, a "dispute" is a "sticky" designation. Once an account is designated as
 disputed, this designation does not come off or expire unless the tradeline is deleted. 15 USC 1681c.

1 relief from the Court, as MARIA risks an adverse employment determination for which she is
 2 otherwise qualified, and for which damages will be inadequate to remedy.

3 STANDARD OF REVIEW

4 NRS 33.010 provides: "An injunction may be granted in the following cases:

- 5 1. When it shall appear by the complaint that the plaintiff is entitled to the relief
 6 demanded, and such relief or any part thereof consists in restraining the
 7 commission or continuance of the act complained of, either for a limited period
 8 or perpetually.
 9
- 10 2. When it shall appear, by the complaint or affidavit that the commission or
 11 continuance of some act, during the litigation, would produce great or
 12 irreparable injury to the plaintiff.
 13
- 14 3. (omitted)

15
 16 A preliminary injunction is available upon a showing that the party seeking it enjoys a
 17 reasonable probability of success on the merits and that the defendant's conduct, if continued,
 18 will result in irreparable harm which may not be fully compensated by legal damages. *Pcikett v.*
 19 *Comanche Construction cCo.* 108 Nev. 422, 836 P.2d 42 (1992), *Dixon v. Thatcher*, 103 Nev.
 20 414, 742 P.2d 1029 (1987). Upon review, the decision of the trial Court will not be overturned
 21 except upon an abuse of discretion. *Ottenheimer v. Real Estate Division*, 91 Nev. 338; 535 P. 2d
 22 1025 (1975).
 23
 24

25 SUBSTANTIVE LAW

26 The FCRA is a remedial statute requiring credit reporters to adopt reasonable procedures
 27 to investigate disputes in credit reporting to insure fairness and that consumer credit reporting
 28

1 agencies exercise "their grave responsibilities with fairness, impartiality, and a respect for the
2 consumer's right to privacy." 15 USC §1681. Under Section §1681c, a credit reporting agency
3 is required to indicate when information furnished to the agency is in dispute. This requirement
4 is "sticky," in that the law does not allow for removal of the dispute. A reinvestigation
5 procedure of information contained in credit reports is required, which includes notice to the
6 furnisher of information, as well as the requirement that the reporting agency consider
7 information submitted by the consumer. 15 USC 1681i.

9 The furnishers of information also have a separate duty to provide accurate information.
10 See §1681s-2 at subsection (a)(1)(A), providing that "A person shall not furnish any information
11 relating to a consumer to any consumer reporting agency if the person knows or has reasonable
12 cause to believe that the information is inaccurate," and (B) "A person shall not furnish
13 information relating to a consumer to any consumer reporting agency if (i) the person has been
14 notified by the consumer, at the address specified by the person for such notices, that specific
15 information is inaccurate; and (ii) the information is, in fact, accurate."

16
17 Here, the Affidavit and accompanying exhibits, demonstrate that MARIA has disputed
18 this debt since 2009, and that despite the concessions by the furnishers of the information, RC
19 WILLEY and RICHLAND dba ACCTCORP, that the information is incorrect, and their repeated
20 promises to fix it – including the draft removal of the tradeline provided by ACCTCORP, the
21 information is still not correct. Indeed, it is not even marked as disputed, which is a strict
22 liability violation of the Fair Credit Reporting Act as to all the Defendants, and the Fair Debt
23 Collections Act by RICHLAND.

24
25 While before the prior harm of adverse interest rates is compensable by the Defendants.
26 Now, the Plaintiff is applying for federal-based employment as a contractor to the Federal
27
28

1 Bureau of Intelligence and has already been asked to explain this adverse item in a background
2 check. If MARIA does not get the position, these Defendants will be the first to claim that
3 Plaintiff's damages are speculative. She deserves a fair shot at the position untainted by the
4 conduct of the Defendants. As this conduct complained of has been continuing since 2009,
5 they collectively have had at least three opportunities to get it right. They are not likely to do so
6 now of their own volition.

7
8 The Defendants' risk of harm in performing an affirmative injunction is negligible if not
9 non-existent, the risk of harm to MARIA and OMAR is high and imminent as they have already
10 been notified by their employer that this is a problem. As there is no risk of harm to the
11 Defendants, even in the event that Plaintiffs were unable to prevail on the motion, Plaintiffs
12 respectfully requests the Court to either a) waive the security requirement of NRCP 65, or b) to
13 set the security amount at a negligent amount so as to not impede their access to justice.
14

15 CONCLUSION

16 WHEREFORE, Plaintiff respectfully requests the Court to grant preliminary injunctive relief,
17 ordering requiring the Defendants to remove the collections tradeline for RC WILLEY Account
18 number 2117992200 / D33944N2 within five (5) days of written notice of entry of the Order,
19 with a waiver of the bond requirement pursuant to NRCP 65(c), and sanctions per Defendant per
20 day for noncompliance.
21

22
23 Respectfully submitted this 4th Day of November, 2011

24 /s/ R. Ohlinger-J.
25 ROBERTA OHLINGER-JOHNSON, ESQ.
26 Nevada Bar #10946
27 1489 W. Warm Springs Road, Ste #110
28 Henderson, NV 89014
702.966.8270 Telephone
866.592.8806 Facsimile
efile@H-YandOAttorneys.com
Attorneys for Plaintiff(s)

AFFIDAVIT FOR RELIEF

1 COUNTY OF CLARK)
 2) ss.
 3 STATE OF NEVADA)
 4)

- 5 1. My name is MARIA DIAZ, formerly MARIA OLIVAREZ, and I am the principal
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 7 upon information and belief. Furthermore, the attached exhibits are all true and correct
 8 copies of the originals I have in my possession provided to me by these agencies in the
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DIAZ / APP for PRELIMINARY INJUNCTION -6-

Nov 04 11 08:53a

Diaz Family

702 5687767

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20
21
22
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28



MARIA DIAZ, Plaintiff

DIAZ / APP for PRELIMINARY INJUNCTION -7-

INDEX OF EXHIBITS

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Exhibit 7. Current Equifax Consumer Credit Report (showing collections history only)

EXHIBIT 1

Minelab USA, Inc.
871 Grier Drive,
Suite B 1
Las Vegas, NV 89119
(702) 891-8809
Fax (702) 891-8810

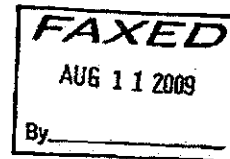


To: Acct Corp
At: LISA
Fax: 702-247-9802
Subject: Copy of Divorce dedree

From: Maria G. Diaz-Aguilar
Pages: 11 including cover
Date: 08-11-2009

Hi Lisa, as per your request, here is a copy of my divorce decree.
You can reach me at 702-588-1314 at any time.

Thanks so much for your assistance



FAX ACKNOWLEDGEMENT

Please acknowledge receipt of the above items by completing and faxing this sheet to the sender.

I acknowledge receipt of pages above.

.....
Signature

.....
Date

EXHIBIT 2

Gaby Olivarez

From: DAVID KAPLAN [D.KAPLAN@ACSNLV.COM]
Sent: Monday, August 23, 2010 2:21 PM
To: Gaby Olivarez
Subject: DELETION ON NAME 2 ONLY.pdf
Attachments: DELETION ON NAME 2 ONLY.pdf

ACCTCORP OF SOUTHERN NEVADA
4955 S. Durango Dr. Suite #177....Las Vegas, NV 89113
Phone (702) 240-3007...Fax (702) 247-9802.
E-Mail: D.KAPLAN@ACSNLV.COM

per your request

Sincerely,

David Kaplan

PRIVACY POLICY: We do not share "Non Public Information" with any "Third Parties or Entities". All information provided shall be kept confidential and we shall treat same as privileged.
THIS IS AN ATTEMPT TO COLLECT A DEBT FROM A DEBT COLLECTION AGENCY; ANY INFORMATION OBTAINED WILL BE USED ONLY FOR THAT PURPOSE

Tel: (702) 240-5007

When you sign this form, you certify that your computer and/or manual records have been adjusted to reflect any changes made.

EXHIBIT 3

August 23, 2010

I SENT SAME LETTER
TO THE 3 CREDIT BUREAU
OFFICES!

Transunion credit Bureau
PO Box 2000
Chester, PA 19022

File # 226182144

Name: Maria Gabriela Diaz-Aguilar
Address: 400 Mackay Street. Henderson, NV 89015
SSN : XXX-XX-2728
File # 226182144

Reason: RC willeys made a big mistake on my credit history. My ex-husband was liable for an account and they reported the account to a collection agency under my social security on Dec 2006, which I divorced him on Jul 2006 and on the divorced decree he is 100% liable for the account. RC willeys reported to the collection agency the mistake and Account Corp of Southern Nevada submitted a deletion of this account from my credit history. Please update mi records immediately and also I need it in writing that this account has been deleted from my history.

I am sending you copy of the email I received from the collection agency from David Kaplan.

You can contact me at all times at 702-588-1314

Or at the following emails

htfuchs@hotmail.com

chama74@sprint.blackberry.net

Sincerely,

Maria Gabriela Diaz-Aguilar

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[illegible]

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Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Sent To <u>Trans union</u>	
Street, Apt. No., or PO Box No. <u>PO Box 2000</u>	
City, State, ZIP+4 <u>Chester PA 19022</u>	
PS Form 3800, June 2002	

8/25/10

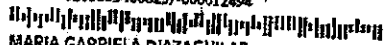
EXHIBIT 4

*** 226182144-008 ***

PO Box 2000
Chester, PA 19022

09/01/2010 TransUnion

P17T8700201805-1008257-000012494

MARIA GABRIELA DIAZAGUILAR
400 MACKAY ST
HENDERSON, NV 89015

Our investigation of the dispute you recently submitted is now complete. The results are listed below. If an item you disputed is not in the list of results below, it was either not appearing in your credit file or it already reflected the corrected status at the time of investigation.

If our investigation has not resolved your dispute, you may add a 100-word statement to your report. If you provide a consumer statement that contains medical information related to service providers or medical procedures, then you expressly consent to TransUnion including this information in every credit report we issue about you. If you wish to obtain documentation or written verification concerning your accounts, please contact your creditors directly.

If there has been a change to your credit history resulting from our investigation, or if you add a consumer statement, you may request that TransUnion send an updated report to those who received your report within the last two years for employment purposes, or within the last one year for any other purpose.

If interested, you may also request a description of how the investigation was conducted along with the business name, address and telephone number of any company we may have contacted for information.

Thank you for helping ensure the accuracy of your credit information.

For frequently asked questions about your credit report, please visit <http://transunion.custhelp.com>

Investigation Results

ITEM	DESCRIPTION	RESULTS
PERSONAL INFORMATION R.C WILLEY	# 2117392200	NEW INFORMATION BELOW VERIFIED, NO CHANGE

P 17T87-002 01805-1008257 01/01

EXHIBIT 5



Financial Services
P.O. Box 65320
Salt Lake City, Utah 84165-0320
Telephone 801.461.3940
Fax 801.461.3858

May 4, 2011

Maria Gabriela Diaz
400 Mackay St
Henderson NV 89015-6093

Re: RC Willey Account: 2117992200

Credit Bureaus Notified: Equifax, Experian and TransUnion

Dear Customer,

Per your request, and in accordance with The Fair Credit Reporting Act, we have reviewed the reporting of the RC Willey Account to the Credit Bureaus listed above. Due to a change in status or to an error in reporting, we have filed the following correction with the Credit Bureaus:

Deleted Delinquency 9/06

This correction is effective immediately, but please allow 30 days for the correction to appear in your file at the Credit Bureaus. This will allow the Credit Bureaus to fully research the problem to ensure it is cleared up completely and accurately.

We apologize for any inconvenience this may have caused you, and we look forward to being of service to you in the future.

Sincerely,

Jo Lynn Lanier
Credit Bureau Research
801-493-4280

EXHIBIT 6

GMAC MORTGAGE #60251***

Pay Status:	>Account 120 Days Past Due Date<
Account Type:	Mortgage Account
Responsibility:	Individual Account
Terms:	\$1150 Monthly for 360 months
Date Opened:	10/26/2009

Estimated month and year that this item will be removed: 05/2018

Last 20 months

00 00 00 OK OK OK OK OK OK OK OK OK OK OK OK OK OK OK OK

30	50	90
1	1	2

Pay Status:	>In Collection<
Account Type:	Open Account
Responsibility:	Joint Account

Estimated month and year that this item will be removed: 11/2014

Pay Status:	>Account Paid in Full; was a Collection<
Account Types:	Open Account
Responsibility:	Individual Account
Date Closed:	12/17/2006
Date Paid:	12/17/2006

Estimated month and year that this item will be removed: 11/2012

The following accounts are reported with no adverse information.

Pay Status:	Current; Paid or Paying as Agreed
Account Type:	Revolving Account
Responsibility:	Individual Account
Date Opened:	08/24/2001
Date Closed:	03/02/2009
Date Paid:	10/04/2008

Remarks: ACCOUNT CLOSED BY CONSUMER

Last 48 months

[illegible]

EXHIBIT 7

A collection is an account that has been turned over to a collection agency by one of your creditors because they believe the account has not been paid as agreed.

RICHLAND HOLDINGS, INC DBA**Agency Address:**

Acctcorp Of Southern Nevad
4955 S Durango Dr
Las Vegas, NV 891130152
(702) 240-3007

Date Reported:

09/2008

Date Assigned:

06/2008

Creditor Classification:**Creditor Name:**

R C WILLEY HOME FURNISHINGS

Accounts Number:

D339XXXX

Original Amount Owed:	\$5,611
Date of 1 st Delinquency:	12/2007
Balance Date:	09/2008
Balance Owed:	\$5,888
Last Payment Date :	N/A
Status Date:	09/2008
Status:	D - Unpaid
Comments:	N/A
ESCALLATE, LLC	

HARRIS, YUG & OHLINGER

ROBERTA OHLINGER-JOHNSON, ESQ.
Nevada Bar #10946
1489 W. Warm Springs Road, Ste #110
Henderson, NV 89014
702.966.8270 Telephone
866.592.8806 Facsimile
efile@HYandOAttorneys.com
Attorneys for Plaintiff(s)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

MARIA DIAZ and OMAR DIAZ,

Plaintiff(s)

vs.

R.C. WILLEY HOME FURNISHINGS, a

Corporation, RICHLAND HOLDINGS, Inc., a

Corporation dba ACCTCORP; EQUIFAX INC,

a Corporation, and TRANS UNION LLC, a

Corporation

Defendant(s)

CASE NO.: A 11-651038-C

DEPT. NO.: XXVII

☒ EXEMPT ☐ NOT EXEMPT FROM

ADR pursuant to NAR 3A - Requests

Equitable Relief

ERRATA: EXHIBITS TO APPLICATION

FOR PRELIMINARY INJUNCTIVE RELIEF

Respectfully submitted this 4th Day of November, 2011

/s/ R. Ohlinger-J.

ROBERTA OHLINGER-JOHNSON, ESQ.
Nevada Bar #10946
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Henderson, NV 89014
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AFFIDAVIT FOR RELIEF

1 COUNTY OF CLARK)

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DIAZ / APP for PRELIMINARY INJUNCTION -6-

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Diaz Family

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DIAZ / APP for PRELIMINARY INJUNCTION -7-

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Minelab USA, Inc.
871 Grier Drive,
Suite B 1
Las Vegas, NV 89119
(702) 891-8809
Fax (702) 891-8810



To: Acct Corp

From: Maria G. Diaz-Aguilar

At: LISA

Pages: 11 including cover

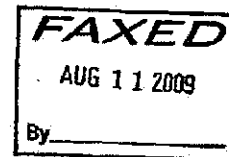
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Date: 08-11-2009

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Signature

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Date

Tab#: (702) 248-3007

When you sign this form, you certify that your computer and/or manual records have been adjusted to reflect any changes made.

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From: DAVID KAPLAN [D.KAPLAN@ACSNLV.COM]
Sent: Monday, August 23, 2010 2:21 PM
To: Gaby Olivarez
Subject: DELETION ON NAME 2 ONLY.pdf
Attachments: DELETION ON NAME 2 ONLY.pdf

ACCTCORP OF SOUTHERN NEVADA
4955 S. Durango Dr. Suite #177....Las Vegas, NV 89113
Phone (702) 240-3007..Fax: (702) 247-9802.
E-Mail: D.KAPLAN@ACSNLV.COM

per your request

Sincerely,

David Kaplan

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Chester, PA 19022

File # 226182144

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Address: 400 Mackay Street. Henderson, NV 89015
SSN : XXX-XX-2728
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You can contact me at all times at 702-588-1314

Or at the following emails

ltfuchs@hotmail.com

chama74@sprint.blackberry.net

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CERTIFIED MAIL RECEIPT
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For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	8/25/10
Certified Fee		
Return Receipt Fee <small>(Endorsement Required)</small>		
Restricted Delivery Fee <small>(Endorsement Required)</small>		
Total Postage & Fees	\$	

7004 3360 0004 2648 7026

Send To	Trans union
Street, Apt. No., or PO Box No.	PO Box 2000
City, State, ZIP+4	Chesler PA 19022

PS Form 3800, June 2009

EXHIBIT 4

*** 226182144-008 ***

PO Box 2000
Chester, PA 19022

09/01/2010 TransUnion

P17T8700201805-1008257-000012494

MARIA GABRIELA DIAZAGUILAR

400 MACKAY ST
HENDERSON, NV 89015

Our investigation of the dispute you recently submitted is now complete. The results are listed below. If an item you disputed is not in the list of results below, it was either not appearing in your credit file or it already reflected the corrected status at the time of investigation.

If our investigation has not resolved your dispute, you may add a 100-word statement to your report. If you provide a consumer statement that contains medical information related to service providers or medical procedures, then you expressly consent to TransUnion including this information in every credit report we issue about you. If you wish to obtain documentation or written verification concerning your accounts, please contact your creditors directly.

If there has been a change to your credit history resulting from our investigation, or if you add a consumer statement, you may request that TransUnion send an updated report to those who received your report within the last two years for employment purposes, or within the last one year for any other purpose.

If interested, you may also request a description of how the investigation was conducted along with the business name, address and telephone number of any company we may have contacted for information.

Thank you for helping ensure the accuracy of your credit information.

For frequently asked questions about your credit report, please visit <http://transunion.custhelp.com>

Investigation Results

ITEM	DESCRIPTION	RESULTS
PERSONAL INFORMATION		NEW INFORMATION BELOW
R.C WILLEY	# 2117902200	VERIFIED, NO CHANGE

P 17T87-002 01805-1008257 0100

EXHIBIT 5



Financial Services
P.O. Box 65320
Salt Lake City, Utah 84165-0320
Telephone 801.461.3940
Fax 801.461.3858

May 4, 2011

Maria Gabriela Diaz
400 Mackay St
Henderson NV 89015-6093

Re: RC Willey Account: 2117992200

Credit Bureaus Notified: Equifax, Experian and TransUnion

Dear Customer:

Per your request, and in accordance with The Fair Credit Reporting Act, we have reviewed the reporting of the RC Willey Account to the Credit Bureaus listed above. Due to a change in status or to an error in reporting, we have filed the following correction with the Credit Bureaus:

Deleted Delinquency 9/06

This correction is effective immediately, but please allow 30 days for the correction to appear in your file at the Credit Bureaus. This will allow the Credit Bureaus to fully research the problem to ensure it is cleared up completely and accurately.

We apologize for any inconvenience this may have caused you, and we look forward to being of service to you in the future.

Sincerely,



Jo Lynn Lanier
Credit Bureau Research
801-493-4280

EXHIBIT 6

GMAC MORTGAGE #60251****

ACCOUNT CORP OF SOUTHERN #D339***

ESCALLATE INC #3124****

Satisfactory Accounts

CAPITAL ONE BANK USA NA #529115203633****

DIAZ PL29

EXHIBIT 7

A collection is an account that has been turned over to a collection agency by one of your creditors because they believe the account has not been paid as agreed.

RICHLAND HOLDINGS, INC DBA**Agency Address:**

Accicorp Of Southern Nevad
4955 S Durango Dr
Las Vegas, NV 891130152
(702) 240-3007

Date Reported:

09/2008

Date Assigned:

06/2008

Creditor Classification:**Creditor Name:**

R C WILLEY HOME FURNISHINGS

Accounts Number:

D339XXXX

Original Amount Owed:	\$5,611
Date of 1 st Delinquency:	12/2007
Balance Date:	09/2008
Balance Owed:	\$5,888
Last Payment Date :	N/A
Status Date:	09/2008
Status:	D - Unpaid
Comments:	N/A
<div> <div>ESCALLATE, LLC</div> </div>	



CORPORATION SERVICE COMPANY*

Notice of Service of Process

Transmittal Number: 9325424
Date Processed: 11/21/2011

Primary Contact: Daniel Halvorsen
Trans Union LLC
555 W. Adams Street
Chicago, IL 60661-3601

Entity:	Trans Union LLC Entity ID Number 1884665
Entity Served:	TransUnion LLC
Title of Action:	Maria Diaz vs. R.C. Willey Home Furnishings
Document(s) Type:	Amended Complaint/Petition
Nature of Action:	Other
Court/Agency:	Clark County District Court, Nevada
Case/Reference No:	A-11-651038-C
Jurisdiction Served:	Nevada
Date Served on CSC:	11/18/2011
Answer or Appearance Due:	Other/NA
Originally Served On:	CSC
How Served:	Regular Mail
Sender Information:	Robert Ohlinger-Johnson 702-966-8270

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC.
CSC is SAS70 Type II certified for its Litigation Management System.
2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | sop@cscinfo.com

1 COM
2 HARRIS, YUG & OHLINGER
3 ELLIOTT D. YUG, ESQ.
4 Nevada Bar No. 5172
5 ROBERTA OHLINGER-JOHNSON,
6 Nevada Bar No. 10146
7 1489 Warm Springs Rd., # 110
8 Henderson, NV 89014
9 (702) 966-8270
10 Attorneys for Plaintiff(s)
11 MARIA DIAZ and OMAR DIAZ

12
13 DISTRICT COURT
14 CLARK COUNTY, NEVADA

15 MARIA DIAZ and OMAR DIAZ,
16 Plaintiff(s)

17 vs.

18 R.C. WILLEY HOME FURNISHINGS, a
19 Corporation, RICHLAND HOLDINGS, Inc., a
20 Corporation dba ACCTCORP; EQUIFAX INC.,
21 a Corporation, and TRANS UNION LLC, a
22 Corporation, and EXPERIAN INFORMATION
23 SOLUTIONS INC., a Corporation
24 Defendant(s)

CASE NO.: A 11-651038-C

DEPT. NO.: XXVII

25 CERTIFICATE OF MAILING

26 I, Dawn DeMastrie, hereby certify that on the 17th day of November, 2011 I placed a true
27 copy of the AMENDED COMPLAINT into the US Mail, postage prepaid, and addressed to the
28 following at their last known address:

29 R.C. WILLEY HOME FURNISHINGS
30 20 North Stephanie Street
31 Henderson, NV 89074
32 Defendant

33 RICHLAND HOLDINGS, INC.
34 DbA ACCTCORP
35 8985 South Eastern
36 Suite #160
37 Las Vegas, NV 89123
38 Defendant

39 ///
40 ///

1 EXPERIAN INFORMATION SOLUTIONS INC
2 c/o The Corporation Trust Company of Nevada
3 311 South Division Street
4 Carson City, NV 89703
5 *Defendant*

EQUIFAX INC.
2215-B Renaissance Drive
Las Vegas, NV 89119
Defendant

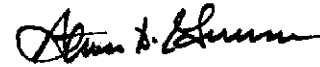
TRANS UNION LLC
2215-B Renaissance Drive
Las Vegas, NV 89119
Defendant

8 Dated this 17th day of November, 2011.

9
10
11
12 

13 Dawn M. DeMastrie
14 Legal Assistant
15 HARRIS, YUG and OHLINGER
16
17
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28

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11/16/2011 01:57:26 PM



CLERK OF THE COURT

1 **COMP**
2 **HARRIS, YUG & OHLINGER**
3 ROBERTA OHLINGER-JOHNSON, ESQ.
4 Nevada Bar #10946
5 1489 W. Warm Springs Road, Ste #110
6 Henderson, NV 89014
7 702.966.8270 Telephone
8 866.592.8806 Facsimile
9 efile@HYandOAttorneys.com
10 Attorneys for Plaintiff(s)

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 MARIA DIAZ and OMAR DIAZ,

11 Plaintiff(s)

12 vs.

13 R.C. WILLEY HOME FURNISHINGS, a

14 Corporation, RICHLAND HOLDINGS, Inc., a

15 Corporation dba ACCTCORP; EQUIFAX INC,

16 a Corporation, and TRANS UNION LLC, a

17 Corporation, and EXPERIAN INFORMATION

18 SOLUTIONS INC., a Corporation

19 Defendant(s)

CASE NO.: A 11-651038-C

DEPT. NO.: XXVII

☒ EXEMPT ☐ NOT EXEMPT FROM

ADR pursuant to NAR 3A - Requests

Equitable Relief

21 **AMENDED COMPLAINT**

23 COMES NOW, Plaintiff(s), through their attorneys of record, Roberta Ohlinger and Elliott Yug
24 of HARRIS YUG AND OHLINGER, and complain and allege as follows:

26 **STATEMENT OF THE PARTIES**

- 27 1. Plaintiffs MARIA DIAZ, formerly MARIA PLOTKIN, and OMAR DIAZ are consumers
28 within the meaning of the Fair Credit Reporting Act, henceforth FCRA, 15 USC § 1681a.

- 1 2. Defendant R.C. WILLEY HOME FURNISHINGS, hereinafter RC WILLEY, is a retailer
2 of furniture, who provides consumer credit for purchase of their products, and is a
3 *furnisher of information* to consumer reporting agencies pursuant to the FCRA.
- 4 3. Defendant RICHLAND HOLDINGS, INC. dba Acctcorp of Southern Nevada,
5 hereinafter RICHLAND, is a collections agency and a *furnisher of information* to
6 consumer reporting agencies within the ambit of the FCRA.
- 7 4. Defendants EQUIFAX, INC, hereinafter EQUIFAX, and TRANS UNION LLC,
8 hereinafter TRANSUNION, and EXPERIAN INFORMATION SYSTEMS INC.,
9 hereinafter Experian, are agencies which compile information on credit worthiness and
10 provides *consumer reports* as defined in the FCRA, 15 USC § 1681a.

13 JURISDICTION

- 14 5. Plaintiff(s) repeat and reallege all allegations above.
- 15 6. Plaintiffs at all times were and are residents of the County of Clark, State of Nevada.
- 16 7. Defendant R.C. WILLEY HOME FURNISHINGS is a foreign corporation which does
17 business in Clark County, Nevada, and this Court has jurisdiction.
- 18 8. The underlying contracts with R.C. WILLEY were entered into in the County of Clark,
19 State of Nevada, and this court has jurisdiction.
- 20 9. Upon information and belief, Defendant RICHLAND HOLDINGS, INC. is a corporation
21 doing business as Acctcorp of Southern Nevada in the County of Clark, State of Nevada,
22 and this court has jurisdiction.
- 23 10. Defendant EQUIFAX is a Corporation doing business in Nevada via the internet, and this
24 court has jurisdiction.
- 25 11. Defendant TRANS UNION, LLC is a foreign Corporation doing business in Nevada via
26 the internet, and this court has jurisdiction.
- 27
- 28

1 12. Defendant EXPERIAN is a Corporation doing business in Nevada via the internet, and
2 this court has jurisdiction.

3 13. The acts and omissions complained of herein were committed in the County of Clark,
4 State of Nevada, and this court has jurisdiction.

5
6 FIRST CLAIM FOR RELIEF

7 (Violation of the Fair Credit Reporting Act, 15 USC §1681 *et. seq.*)

8 14. Plaintiff(s) repeat and reallege all allegations above.

9 15. In February 2005, Lonny Plotkin and MARIA DIAZ, then MARIA PLOTKIN,
10 hereinafter MARIA, applied for consumer credit with R.C. WILLEY. They were
11 approved for a joint, revolving credit account with the numbers 2117992200.
12

13 16. In 2006, MARIA and Lonny divorced. Pursuant to the decree Mr. Plotkin was to assume
14 responsibility for the R.C. WILLEY obligation, which he did. The joint account was
15 closed, and transferred to a new account which was supposed to be Mr. Plotkin's sole
16 account.
17

18 17. Upon information and belief, the Account was transferred to a new account, which
19 should have been Mr. Plotkin's separate account, but was at least negligently designated
20 a joint account.
21

22 18. Upon information and belief, Mr. Plotkin began to have delinquencies sometime in 2007.

23 19. This negative tradeline was reported by RC WILLEY and RICHLAND, as their agent, to
24 TRANS UNION, EQUIFAX, and EXPERIAN in 2008 as a collections history against
25 MARIA.
26
27
28

1 20. On or about August 2009, MARIA became aware of the negative report because of an
2 adverse action on a home loan. MARIA contacted ACCTCORP, and requested a
3 correction. At that time, MARIA had excellent credit except for this single tradeline.

4 21. On or about August 2010, MARIA became aware of the continuing negative tradeline
5 because of an adverse action on an auto loan.
6

7 22. In August 2010, MARIA again disputed this information with RICHLAND HOLDINGS
8 dba ACCTCORP, who indicated the report was in error and agreed to delete the tradeline
9 on her social security number.

10 23. At that time, MARIA sent dispute letters to all three national credit reporting agencies,
11 Defendants TRANSUNION, EQUIFAX, and EXPERIAN. She included the
12 correspondence from ACCTCORP indicating the report was in error, and
13 TRANSUNION replied that the *dispute had been investigated and found to be invalid*.
14

15 24. In April of 2011, MARIA disputed this tradeline directly with RC WILLEY, who agreed
16 to delete the tradeline on her social security number.
17

18 25. As of the date of drafting, OCTOBER 24, 2011, the negative tradeline continues to
19 appear on her credit reports with both TRANSUNION and EQUIFAX.

20 26. MARIA and OMAR DIAZ have been damaged in adverse actions by lenders for this
21 negative collections history, causing the Plaintiff's to suffer an increased interest rate in
22 their automobile and home loans, including a denial of credit for which they otherwise
23 qualified, and now MARIA and OMAR DIAZ are threatened with the loss of federal
24 employment as a direct result of the continued mis-reporting.
25
26
27
28

1 27. That the Defendants have collectively failed to maintain reasonable procedures for the
2 investigation of credit disputes; that the Defendants have failed to investigate a dispute;
3 and that the Defendants have collectively failed to delete an erroneous tradeline.

4 28. That each and every one of these Defendants have acted if not intentionally, then at least
5 with reckless disregard for the rights of the individual and their duties pursuant to statute,
6 thereby justifying punitive damages sufficient to deter like conduct.
7

8 SECOND CLAIM FOR RELIEF

9 (Negligent Undertaking)

10
11 29. Plaintiff(s) repeat and reallege all allegations above.

12 30. Each and every one of the Defendants owes a duty to the Defendant that if they are going
13 to report consumer credit information, they must provide accurate information.

14 31. Each and everyone of these Defendants has breached that duty, and callously injured and
15 endangered the economic and employment welfare of the Plaintiffs in the midst of the
16 highest unemployment and general economic downturn in the modern century.
17

18 32. Each and everyone of these Defendants has acted with callous disregard for the rights of
19 Plaintiffs and their duties pursuant to statute, so as to justify an award of punitive
20 damages sufficient to deter like conduct.
21

22 THIRD CLAIM FOR RELIEF AS TO RICHLAND HOLDINGS & ACCTCORP

23 (Violation of 15 USC § 1692 *et seq.*, Fair Debt Collections Practices Act)

24 33. Plaintiff(s) repeat and reallege all allegations above.

25 34. That RICHLAND and ACCTCORP are debt collectors subject to the Fair Debt
26 Collections Practices Act, 15 USC 1692 *et. seq.*, henceforth FDCPA.
27
28

1 35. That these Defendants have engaged in multiple violations of the FDCPA, in failing to
2 report that a debt is disputed and misrepresenting the legal characterization of the debt.

3 36. That these errors have been persistent and ongoing.
4

5 **WHEREFORE** Plaintiffs pray for Judgment as follows:

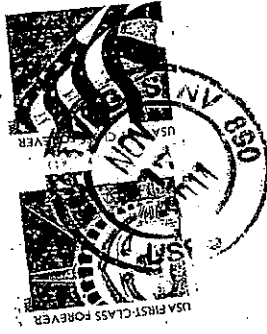
- 6 1. Temporary and permanent injunction against the Defendants from continued
7 reporting of the tradeline against Ms. Diaz;
8
9 2. Damages in excess of \$10,000 in an amount to be proven at trial;
10
11 3. Statutory damages;
12
13 4. Punitive damages pursuant to statute;
14
15 5. A reasonable attorney fees and costs of suit;
16
17 6. And other such relief as the Court should find just and proper in the
18 circumstances.
19

20 Respectfully submitted this 16th day of November, 2011.

21 By: /s/ R. Ohlinger
22 HARRIS, YUG & OHLINGER
23 ROBERTA OHLINGER-JOHNSON
24 Nevada Bar #10946
25 Attorneys for Plaintiff(s)
26
27
28

HARRIS, YUG & OHLINGER

1489 W. Warm Springs Road, Ste. #110
Henderson, NV 89014



TRANSUNION LLC
2215-B RENAISSANCE DRIVE
LAS VEGAS, NV 89119

EXHIBIT "B"

1 Paul S. Prior
2 Nevada Bar No. 9324
3 SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
4 Las Vegas, NV 89169
Telephone: (702) 784-5200
5 Facsimile: (702) 784-5252
Email: sprior@swlaw.com

6 Attorneys for Defendant
EQUIFAX INC.

7
8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 MARIA DIAZ and OMAR DIAZ,

11 Plaintiff,

12 vs.

13 R.C. WILLEY HOME FURNISHINGS, a
14 Corporation, RICHLAND HOLDINGS, Inc., a
15 Corporation dba ACCTCORP; EQUIFAX
INC, a corporation, and TRANS UNION LLC,
a Corporation

16 Defendants

CASE NO.

**JOINDER AND CONSENT TO
REMOVAL OF EQUIFAX, INC**

17 Without waiving any other defenses, Equifax, Inc., hereby joins in and consents to the
18 removal of this action from the District Court, Clark County, Nevada, to this Court.

19 Equifax, Inc. first received a copy of the Complaint, the initial pleading setting forth the
20 claim for relief upon which this action is based, on November 8, 2011.

21 DATED this 21 day of November, 2011.

22 SNELL & WILMER L.L.P.

23
24 By: 

25 Paul S. Prior
26 Nevada Bar No. 9324
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169

27 Attorneys for Defendant
28 EQUIFAX INC.

SHUMWAY VAN & HANSEN
8985 South Eastern Ave., Ste 100
Las Vegas NV 89123
Tel (702) 478-7770 Fax (702) 478-7779

1 KEVIN R. HANSEN, ESQ.
Nevada Bar No. 6336

2 **SHUMWAY, VAN & HANSEN**
8985 South Eastern Avenue, Suite 100
3 Las Vegas, Nevada 89123
kevin@shumwayvan.com

4 Attorney for Defendants
5 R.C. WILLEY HOME FURNISHINGS, and
6 RICHLAND HOLIDNGS, INC. d/b/a ACCTCORP

7 **UNITED STATES DISTRICT COURT**

8 **DISTRICT OF NEVADA**

9 MARIA DIAZ AND OMAR DIAZ,
10
11 Plaintiffs,
12 vs.

Case No.: _____

13 R.C. WILLEY HOME FURNISHINGS,
14 RICHLAND HOLIDNGS, INC. d/b/a
15 ACCTCORP, EQUIFAX INC., and TRANS
16 UION LLC,
Defendants

17 **DEFENDANTS R.C. WILLEY HOME FURNISHINGS**
18 **and RICHLAND HOLIDNGS, INC. d/b/a ACCTCORP**
CONSENT TO REMOVAL

19 Without waiving any of its defenses or any other rights, Defendant R. C. Willey
20 Home Furnishings and Defendant Richland Holdings, Inc. dba Acctcorp of Southern
21

22 ////

23 ////

24 ////

1 Nevada hereby consent to the removal of the above-captioned matter from the District
2 Court of Clark County, Nevada to the United States District Court for the District of
3 Nevada.

4 Dated November 18, 2011.

5 **SHUMWAY, VAN & HANSEN**

6
7 

8 Kevin R. Hansen, Esq.
9 Nevada State Bar No. 6336
10 8985 South Eastern Ave., Suite 100
11 Las Vegas, Nevada 89123
12 Attorney for Defendants
13 R.C. WILLEY HOME FURNISHINGS, and
14 RICHLAND HOLIDINGS, INC. d/b/a
15 ACCTCORP
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GORDON SILVER
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Las Vegas, Nevada 89169
Tel: (702) 796-5555
Fax: (702) 369-2666

*Attorneys for
Experian Information Solutions, Inc.*

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARIA DIAZ and OMAR DIAZ,

Plaintiff,

v.

R.C. WILLEY HOME FURNISHINGS, a
Corporation, RICHLAND HOLDINGS, INC., a
Corporation dba ACCTCORP; EQUIFAX INC, a
Corporation, and TRANS UNION, LLC; a
Corporation, and EXPERIAN INFORMATION
SOLUTIONS, INC., a Corporation,

Defendants.

NO.

CONSENT TO REMOVAL

Without waiving any of its defenses, rights or remedies, all of which are hereby reserved in full, Experian Information Solutions, Inc. ("Experian"), consents to and does not oppose the removal of Case No. A 11-651038, originally filed in the Eighth Judicial District Court, Clark County, Nevada, to the United States District Court for the District of Nevada.

DATED this 22nd day of November 2011

GORDON SILVER

/s/ Francesca V. Van Buren
FRANCESCA VAN BUREN

Nevada Bar No. 10260
3960 Howard Hughes Pkwy., 9th Floor
Las Vegas, Nevada 89169
(702) 796-5555

Attorneys for EXPERIAN INFORMATION
SOLUTIONS, INC.